

June 26, 2006

SUBJECT: Montana Department Of Transportation Proposed Compost Operation.

Dear Sir or Madam:

The Department of Environmental Quality (Department) has prepared the enclosed Programmatic Analysis (PA) to comply with the Administrative Rules of Montana, 17.4.607(5) and 17.4.610(4). The enclosed PA is for the action of licensing Small Composter Operations by the MDT that have road kill as a component.

A Small Composter Operation: (a) has less than two acres of active working area; (b) accepts less than 10,000 cubic yards annually; and (c) produces less than 1,000 tons of compost annually; and either: (i) accepts primarily yard waste, with a maximum of 25% barn or farm waste, by weight; or (ii) accepts primarily farm or barn waste generated on-site. In the proposed operations, local road killed animals would be substituted for the manure. The use of the material would be restricted to non-public contact sites and would not be sold or otherwise distributed to the public. This process has been tested by the MDT with good results and is modeled after operations in other states.

The results of this PA indicate that the proposed action does not individually, collectively, or cumulatively require an EA or an EIS, and therefore qualifies for a categorical exclusion.

The Department posted the PA on the Internet on June 26, 2006. A reply to this letter is not required. However, if you wish to comment on this proposed action, please do so in writing, or on the Internet at wutbcomments@mt.gov by July 26, 2006. If you have any questions or need additional information, please contact me at the Permitting and Compliance Division, Waste and Underground Tank Management Bureau, Solid Waste Section, (406) 444-1808 or e-mail pcrowley@mt.gov.

Sincerely,

A handwritten signature in cursive script, reading "F. Patrick Crowley".

F. Patrick Crowley
Project Manager
Waste Management Section

**DEPARTMENT OF ENVIRONMENTAL QUALITY
PERMITTING AND COMPLIANCE DIVISION**

**PROGRAMMATIC ANALYSIS OF THE LICENSING OF SMALL COMPOSTER OPERATIONS
BY THE MONTANA DEPARTMENT OF TRANSPORTATION
THAT INCLUDE ROAD KILL AS A COMPONENT
FOR THE JUSTIFICATION OF A CATEGORICAL EXCLUSION
PURSUANT TO ARM 17.4.607**

WASTE AND UNDERGROUND TANK MANAGEMENT BUREAU – SOLID WASTE PROGRAM

JUSTIFICATION FOR A CATEGORICAL EXCLUSION

The Department is not required to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS), pursuant to the Montana Environmental Policy Act, for the actions that qualify for a “categorical exclusion”. The phrase “categorical exclusion” refers to a type of action which does not individually, collectively, or cumulatively require an EA or an EIS, as justified by a programmatic review.

The following programmatic review describes actions that seldom, if ever, cause significant impact. The programmatic review also identifies the circumstances that could cause an otherwise excluded action to potentially have significant environmental impacts and provides the procedure whereby these situations would be discovered and appropriately analyzed.

The Department believes a categorical exclusion from preparation of an EA or EIS for the licensure of Small Composter Operations including road kill is justified by the following programmatic review.

DESCRIPTION OF PROJECT – SUMMARY OF PROGRAMMATIC ANALYSIS

Section 75-10-221 Montana Code Annotated (MCA) requires that all solid waste management systems operating in the State of Montana obtain a license from the Department of Environmental Quality (Department). Small composter operations in the State of Montana are licensed by the Department. The Department is in the process of adopting rules that specify the operational requirements applicable to those operations that meet the definition of a small composter as defined in ARM 17.50.403(44) as:

“an operation that (a) has less than two acres of active working area; (b) accepts less than 10,000 cubic yards annually; and (c) produces less than 1,000 tons of compost annually; and either: (i) accepts primarily yard waste, with a maximum of 25% barn or farm waste, by weight; or (ii) accepts primarily farm or barn waste generated on-site.”

The licensing of small composter operations requires license renewal on an annual basis, thereby allowing for the tracking of current composters and maintaining information on materials composted. The Department mails annual renewal forms to the licensees and the licenses are renewed on July 1 each year.

The raw materials used by small composters are limited to farm or barn waste generated on-site and yard waste, including grass clippings and tree waste, generated from offsite sources. Since small compost facilities compost limited amounts of material and are restricted in the kinds of material they can accept, they have less potential for adverse environmental impacts. The application forms are simpler and less detailed than those for large composters. This facilitates the application and licensing of these smaller, simpler facilities, and encourages recycling. The information required still allows the Department to properly evaluate the environmental impacts of these facilities to identify whether circumstances warrant a more comprehensive environmental analysis.

The Montana Department of Transportation (MDT), with cooperation from the Montana Department of Environmental Quality, has developed a process to compost road killed animals that is similar to a small composter operation. A test facility has been in operation for a year and has successfully composted over 500 animals with minimal environmental impact. The proposed facilities would be located at existing MDT road maintenance facilities and would handle between 100 and 700 animals per year at each site. The acreage and volume would be similar to a small composter operation. The plan of operations followed by the MDT specifies techniques and materials for the composting process. All of the materials are identical to the materials used in the small composter operations with the addition of road kill carcasses. The techniques and the materials used minimize odors and other environmental impacts and produce a material that can be used by the MDT for revegetation of roadways in areas that do not have contact by the general public. Compost will not be sold or given away to the public and will remain the property of MDT. The compost generated at any specific site will be used in the MDT District near the compost site where it was made. The MDT will record the locations where the compost was used.

The techniques and materials used for composting are derived from processes developed in other States for the composting of agricultural wastes that include carcasses. Agricultural operations can compost animal mortalities without a license from the Department under the exemption provided in 75-10-214, MCA. Draft guidelines from the EPA propose on-site composting of bird mortalities in the event of an outbreak of Asian Bird Flu as the preferred carcass disposal method. The State of New York has a significant program for the composting of road kill and other States are adopting the process.

In the event that the sites become odiferous or an attraction to animals, the MDT has agreed to remove all materials from the sites if the problems cannot be corrected by better moisture control, adjusting the Carbon:Nitrogen ratio, or fencing to exclude animals. If fencing is needed, MDT will consult with the Montana Department of Fish, Wildlife and Parks (FWP) for advice on types of fencing. MDT has agreed to cooperate with FWP on any testing or wildlife sampling programs FWP may institute. If FWP detects the presence of Chronic Wasting Disease (CWD) in an area, all compost on-site or in processing would be removed to a Class II landfill or incinerated unless the EPA determines that composting is a safe method of handling prion diseases. Since the composting process takes about nine months to produce a finished product, this would provide a buffer to ensure that the MDT compost would be unlikely to contain CWD prions. In addition the requirement to use the compost locally and the small amount of compost generated would prevent possible dissemination and tracking the locations of compost application could allow further control measures, if needed. Temperature monitoring at the test site has demonstrated that the composting process operates at levels that kills viruses and pathogenic bacteria. Temperature monitoring will be required at all facilities to ensure product quality.

The small composter license application form is included in Appendix A. This form provides an outline of the specific information required regarding the plan of operations, information specific to the site and material being composted, and information about the applicant. If the Department concludes the completed application meets the criteria set out in this programmatic analysis, no further analysis under the Montana Environmental Policy Act (MEPA) would be required.

BENEFITS AND PURPOSE OF PROJECT: The benefits and purpose of the project are to provide for clear and consistent regulation of small composter operations conducted by the MDT while maintaining protection of human health and the environment. The Department and MDT have a standardized plan for the operation of these facilities and for submittal of information to facilitate the review and licensing of MDT small composter operations to maximize the efficiency of the decision-making and licensing process for the applicant. This documentation provides a categorical exclusion from the more detailed application process and environmental analysis required for large composting operations. The proposed rules more efficiently

allocate Department solid waste staff and resources towards licensing and compliance activities associated with larger, more complex solid waste management facilities. The MDT would save both transportation and disposal costs for the carcasses. The process would generate material that could be used for roadside reclamation and avoid the cost of purchasing and transporting other compost. There is no licensing fee assessed for small composter operations.

AGENCY ROLES AND RESPONSIBILITIES: The Department is responsible for ensuring activities proposed under the Solid Waste Management Act are in compliance with the Act and with other State and Federal regulations. Licenses issued pursuant to these regulations do not confer any property rights to a licensee. Each licensee is responsible for obtaining any special use permits and complying with other agency, county, or local/city restrictions and requirements. The MDT is responsible for the collection and disposal of road kill.

ALTERNATIVES CONSIDERED

In addition to the proposed licensing action, the Department considered the “no-action” alternative. The “no-action” alternative would be to maintain the current requirement to individually review and license these operations as large composting operations. However, the “no-action” alternative would not accomplish the intended goal of increasing the effective use of Department staff and resources. The “no-action” alternative would place a significant financial burden on the MDT and preclude the use of the composting process for managing road kill. The disposal and transportation costs to MDT would continue.

NO-ACTION: Under the No-Action Alternative, the Department would require the MDT to license their composting operation with the Department as a large composter or dispose of carcasses at a licensed Class II landfill. The current licensing process is an intensive process that uses considerable staff time. The disposal of carcasses at landfills involves significant on-going costs to the MDT and uses significant resources for the transportation required to haul the road kill to landfills

PROPOSED ALTERNATIVE: Under this alternative, the Department would use a standardized approach to process the small composter license application from the MDT. Upon receipt of a complete new small composter license application, the Department will send a notice to all contiguous landowners that provides for a 30-day comment period on the proposed project. Comments received will be reviewed and a final decision will be made as to whether the project will be licensed or denied, or additional information is required in order to respond to the comments.

Appendix A contains the small composter license application form. The form outlines and defines the information required to process the license application, including the Small Composter Site Operations and Maintenance Plan submittal requirements. The proposed rules referred to in the application include new licensing and reporting requirements.

IMPACTS AND AFFECTED ENVIRONMENTS

The level of impacts to the physical, biological, social, and economic environments have been reviewed and are presented in Tables 1 and 2. The proposed rules would include requirements limiting operations to levels that are protective of human health and the environment. Department staff would enforce the proposed rules by inspecting these facilities periodically, as well as reviewing the information each facility will be required to submit on an annual basis.

TABLE 1 - PREDICTED IMPACTS OF THE PROPOSED PROJECT ON THE PHYSICAL & BIOLOGICAL ENVIRONMENTS

RESOURCE	LEVEL OF IMPACT ¹					
	Major	Moderate	Minor	None	Unknown	Appendix
1. Terrestrial and Aquatic Life and Habitat				✓		
2. Water Quality, Quantity, and Distribution				✓		
3. Geology and Soil Quality, Stability and Moisture			✓			
4. Vegetation Cover, Quantity and Quality				✓		
5. Aesthetics				✓		
6. Air Quality				✓		
7. Unique, Endangered, Fragile or Limited Environmental Resources				✓		
8. Demands on Environmental Resources of Water, Air, and Energy			✓			
9. Historical and Archaeological Sites				✓		

¹ CUMULATIVE IMPACTS: No impacts are anticipated as the Department limits the type and amount of material used and the maximum volume of compost produced for small composting operations. Small Composter licenses will be issued after the submittal of a complete application and the Department's review and approval of the application and facilities would use a standard operation and maintenance plan.

3. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE. Compost use has positive benefits for soil quality and moisture content in areas disturbed by construction. Since only a small amount of compost would be produced at any site over the year, the benefits would be minor and confined to areas near the compost facility.

8. DEMANDS ON ENVIRONMENTAL RESOURCES OF WATER, AIR, AND ENERGY. The road kill composting would reduce the amount of energy required to transport carcasses to landfill and the need to transport other compost for MDT use.

TABLE 2 - PREDICTED IMPACTS OF THE PROPOSED PROJECT ON THE SOCIAL & ECONOMIC ENVIRONMENTS

RESOURCE	LEVEL OF IMPACT ¹					
	Major	Moderate	Minor	None	Unknown	Appendix
1. Social Structure and Mores				✓		
2. Cultural Uniqueness and Diversity				✓		
3. Local and State Tax Base and Tax Revenue				✓		
4. Agricultural or Industrial Production				✓		
5. Human Health				✓		
6. Access to and Quality of Recreational and Wilderness Activities				✓		
7. Quantity and Distribution of Employment				✓		
8. Distribution of Population				✓		
9. Demands for Government Services				✓		
10. Industrial and Commercial Activity				✓		
11. Locally Adopted Environmental Plans and Goals				✓		

¹ CUMULATIVE IMPACTS: No impacts are anticipated as the Department limits the type and amount of material used and the maximum volume of compost produced for this subset of small composting operations. Small Composter licenses will be issued after the submittal of a complete application and the Department's review and approval of the application and the site operation and maintenance plan.

PREFERRED ALTERNATIVE

The Department's preferred alternative is to adopt the general Small Composter License requirements and application requirements described in this programmatic analysis without modifications.

RECOMMENDATIONS FOR FURTHER ENVIRONMENTAL ANALYSIS

☐ EIS ☐ More Detailed EA ☒ No Further Action

Rationale for recommendation: This licensing process for Small Composter operations would be a more efficient way for the MDT to apply for licenses and for the Department to review those applications. There would be no impact to the existing environments as the Department limits the type and amount of material used and the maximum volume of compost produced for small composting operations. The Small Composter licenses will be issued after the submittal of a complete application and the Department's review and approval of the application and the site operation and maintenance plan. The compost produced would be restricted to uses considered to be a beneficial reuse of a waste product and protective of human health and the environment.

APPENDIX A

**DEPARTMENT OF ENVIRONMENTAL QUALITY
PERMITTING AND COMPLIANCE DIVISION
WASTE AND UNDERGROUND TANK MANAGEMENT BUREAU
SOLID WASTE PROGRAM
P.O. Box 200901
HELENA, MT 59620-0901
PHONE: 406-444-5300
FAX: 406-444-1374**

SMALL COMPOSTER FACILITY LICENSE APPLICATION

<i>Section 1 – General Information</i>	
<i>Applicant Name:</i> _____	<i>Business Mailing Address:</i> _____ _____ _____
<i>Business Name:</i> _____	<i>City:</i> _____ <i>Zip:</i> _____
<i>Applicant Title:</i> _____	<i>Phone:</i> _____
	<i>Fax:</i> _____
	<i>Email:</i> _____
<i>Section 2 – Site Location Information</i>	
<i>Proposed Site Location/Physical Address:</i>	
<i>Site Legal Description (Location):</i> (Section, Township, and Range [to nearest ¼ Section])	
<i>Latitude/Longitude:</i>	
<i>Is applicant listed above the owner of the facility property:</i> <input type="checkbox"/> YES <input type="checkbox"/> NO (Attach proof of ownership. If applicant is not the legal landowner, provide current landowner information below)	
<i>Landowner Name:</i> _____	
<i>Landowner Mailing Address:</i> _____	
<i>City:</i> _____ <i>State:</i> _____ <i>Zip:</i> _____	
<i>Landowner Phone Number:</i> _____	
<i>Total acreage of proposed facility:</i> _____ <i>Total acreage available for composting:</i> _____ (limited to 2 acres)	

Section 3 – Attachments

Small Composter Site Operation and Maintenance Plan (required)

An operation and maintenance plan MUST BE INCLUDED that provides provisions for EACH of the following items:

- (a) Schedule of Operation
- (b) Site access controls;
- (c) Types and sources of raw materials to be composted, including a description of the source, quality, and quantity of the feedstock;
- (d) Daily traffic flow and procedures for unloading trucks
- (e) Procedures for operation during wind, heavy rain, snow, or freezing conditions;
- (f) List of equipment available for use;
- (g) Description of any seed material or compost starter used
- (h) Description of the ultimate use for the stabilized compost;
- (i) Method of aeration;
- (j) Method of removal from the site and a plan for the disposal of stabilized compost that cannot be used in the expected manner;
- (k) Description of personnel required and their responsibilities;
- (l) Surface water run-on and run-off control;
- (m) Calculation of 24-hour, 25-year storm run-off event;
- (n) Description of any monitoring that will occur involving the composting process or the site;
- (o) A contingency plan that outlines steps taken in the event (i) unapproved materials are delivered to the site, (ii) odors are detected, (iii) groundwater contamination is identified, or (iv) other undesirable conditions are noted.
- (p) For windrow systems, a detailed description of the windrow construction;
- (q) For in-vessel systems, a process flow diagram of the entire process

MAPS (required)

The following maps MUST BE INCLUDED that provide the following information:

- (a) A site map that delineates the boundary lines of:
 - (i) Composting area in relation to property boundary;
 - (ii) Composting facility drainage with contour intervals no greater than 5-feet, including run-on and run-off controls, ditches, and swales;
 - (iii) Direction of prevailing winds;
 - (iv) Location of access roads and on-site roads;
 - (v) Location of property boundaries and names/addresses of all contiguous landowners;
 - (vi) Location of water supply wells, buildings, residences, surface water bodies, and drainage swales within 1,000-feet of the site; and,
 - (vii) Identification of all current and future facility buildings.
- (b) A vicinity map of 1:24,000 scale that delineates the following areas within one-mile of the facility boundaries, including:
 - (i) Zoning and land use;
 - (ii) Residences;
 - (iii) Surface waters;
 - (iv) Access roads, bridges, railroads, airports;
 - (v) Historic sites and other manmade or natural features relating to the project.

Section 4 – Certifications

APPLICANT CERTIFICATION – OWNER SIGNATURE

I am the party responsible for operation of this proposed facility. I certify that the abovedescribed solid waste management system will be constructed and operated in accordance with Sections 75-10-201 through 75-10-233, Montana Code Annotated (MCA), the rules adopted pursuant thereto, and in accordance with conditions which have or may be imposed in the license. I have personally examined and am familiar with the information in this application and all attached documents. To the best of my knowledge, information, and belief, the submitted information is accurate and complete.

Applicant printed name

Applicant Signature

Date

LOCAL PLANNING AND ZONING CERTIFICATION

(To be signed by appropriate local government official having knowledge of local zoning ordinances)

I hereby certify that the site of the planned solid waste management system is in accordance with local governmental zoning and ordinances.

(Printed name of local official)

(Title)

(Signature of local official)

(Date)